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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 STEVEN MULLINS,

11 Petitioner,

12 v.

13 STATE OF WASHINGTON,

14 Respondent.

CASE NO. 12-cv-05204 RBL JRC

ORDER TO AMEND THE PETITION
TO NAME A PROPER
RESPONDENT AND DENYING
PETITIONER'S MOTION TO
EXPAND THE RECORD

15 The petitioner in this action seeks habeas corpus relief from a state conviction and
16 sentence. This case has been transferred from the United States District Court for the Eastern
17 District of Washington to this Court. The petition has been referred to the undersigned
18 Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b) (1) (A) and (B) and Local Magistrate Judge
19 Rules MJR 3 and MJR 4.

20 Petitioner names the State of Washington as the respondent. The proper respondent is
21 "the person having custody of the person detained." 28 U.S.C. § 2243. Petitioner needs to name a
22 natural person -- not a governmental entity. The proper respondent is the person having custody
23 of the petitioner. 28 U.S.C. § 2242. This person is usually the superintendent of the facility in
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ORDER TO AMEND THE PETITION TO NAME A
PROPER RESPONDENT AND DENYING
PETITIONER'S MOTION TO EXPAND THE
RECORD - 1

1 which the petitioner is incarcerated. The petitioner's failure to name the correct party deprives
2 this Court of personal jurisdiction. See Stanley v. California Supreme Court, 21 F.3d 359, 360
3 (9th Cir. 1994).

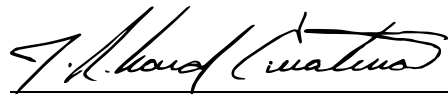
4 The Court orders that petitioner file an amended petition on the form provided by the
5 Court. The amended petition will act as a complete substitute for the original. The amended
6 petition will be due on or before April 20, 2012. Failure to comply with this order will result in a
7 Report and Recommendation that this action be dismissed for failure to comply with a court
8 order and lack of in personam jurisdiction over the respondent.

9 Petitioner asks the Court to consider a one hundred and six page memorandum in support
10 of his petition (ECF No. 2). The Court has reviewed the memorandum. The memorandum
11 contains plaintiff's version of events covering a number of years before the crime through trial.
12 The document contains hearsay and a large body of evidence that was not before the trial court.
13 The Court declines to make this part of the record, as it is not part of the record on review.

14 If petitioner believes an evidentiary hearing is warranted in order to accept additional
15 evidence then he may file a motion. The motion to consider the memorandum as part of the
16 record is DENIED.

17 The Clerk is directed to mail a copy of this Order to petitioner and note the April 20,
18 2012 deadline on the court's calendar.

19 Dated this 13th day of March, 2012.

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22 J. Richard Creatura
23 United States Magistrate Judge
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